Public Agencies Governance Framework

Alberta

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Table of Contents

1 Introduction

The *Public Agencies Governance Framework* has been adopted by the Government of Alberta in response to *At a Crossroads: the Report of the Board Governance Review Task Force*. The Framework focuses on promoting good governance of the province's agencies, boards and commissions.

Agencies (including boards and commissions) are established by the government to fulfill a range of services and functions including: provision of health care, social services, services for children, corporate enterprises, regulatory oversight, post-secondary education and advice to the government. The Government of Alberta currently has about 250 distinct agencies, to which it allocates close to half of its annual operating expenditures. The *Public Agencies Governance Framework* outlines the Government of Alberta policy on agency governance. The purpose is to provide clear expectations on all elements of governance including accountability and transparency.

Each section of this document addresses a different issue, lays out the policy, explains the rationale and discusses high-level implementation.

An Agency Governance Secretariat has been established to support ministries and agencies in implementing the Framework by providing further advice, assistance and implementation tools. The Secretariat will be located in Executive Council and led in a way that promotes coordination, fosters a wide range of perspectives, and respects the role of the responsible minister.

2   Application

2.1   Government Policy

The *Public Agencies Governance Framework* applies to all agencies.

2.2   Rationale

Agencies are involved in a significant portion of the Government of Alberta's operations. In order for the Government of Alberta to be accountable to Albertans, it must be confident that all elements of its work, including agencies, are well governed.

2.3   Implementation

2.3.1   Agency Definition

For the purposes of this framework, an agency is a board, commission, tribunal or other organization:

- established by government but not part of a government department;
- that has been given responsibility to perform a public function;
- that is accountable to government;
- that has some degree of autonomy from government; and
- for which the government holds the primary power of appointment.

The definition is described in the following chart.

Criteria	Application
Established by government but not part of a government department.	The government creates agencies to conduct work – whether it is a new function or one previously conducted by government – outside of regular department structures. Agencies report directly to the minister and are most often established through legislation.
Given responsibility to perform a public function.	Agencies are created for the benefit of Albertans. The outcome of agency efforts is the public good, whether the agency interacts directly or indirectly with the individuals who benefit.
Accountable to government	Agencies are charged with accomplishing a specific purpose. Part of accepting this mandate includes being accountable to report on their performance and to operate within the bounds of their legislation. The method and frequency of reporting can vary depending on the type of agency and its mandate.
Autonomous to some degree from government	Agencies are created outside of the traditional government structures to allow them some level of autonomy. The amount of autonomy will vary according to function, mandate and structure. Adjudicative agencies, for example, require freedom from government interference in their decisions but remain accountable to government to work within their mandate.
Primary power of appointment held by government.	Agencies are governed by directors who are appointed by the government to act in the best interest of the agency. In many cases, the agency plays a large role in finding directors, and in some cases, the government appoints people nominated by a stakeholder group.

The following are *not* considered agencies for the purposes of this Framework:

- entities whose members are elected directly by Albertans (e.g. municipal councils and school boards);
- short-term, ad-hoc groups that deal with a specific issue and which exist for 12 or fewer months or (e.g. Affordable Housing Task Force);
- delegated administrative organizations (DAOs); and
- the judiciary.

2.3.2 Relationship to Other Definitions/ Applications

The Framework's definition of agency does not interfere with other similar definitions currently in use in the Government of Alberta. For example, the *Financial Administration Act's* definitions of crown-controlled agencies, provincial agencies, provincial committees, provincial corporations and regulated funds will still apply within the context of that *Act*.

Note that this Framework should *not* be construed so as to interfere with the principles of judicial independence and administrative law that are essential to the functioning of quasi-judicial agencies. Furthermore, the Framework's definition of agency has no relationship to the term 'agent of the crown.'

3   Creating, Reviewing and Dissolving an Agency

3.1   Government Policy

Agency establishment and dissolution will be based on a standardized process.

All agencies will be subject to regular review processes to ensure they are meeting their mandates and that they continue to be aligned with government direction.

3.2   Rationale

The decision to establish an agency is significant and can have major implications for the government, government operations and the province's residents. When the establishment of an agency is being considered, particular attention should be paid to why the agency is being established and whether some level of autonomy from government will make the agency more effective. Similarly, significant change to an agency – such as changing its purpose, splitting it or amalgamating it with another group – can also have profound effects and needs to be given careful consideration.

Part of the approval process for new or revised agencies will involve creating a business case. Creation of the business case must balance the need for timeliness and scope of responsibilities of the proposed agency.

3.3   Implementation

3.3.1   Business Case

A proposal by a ministry to establish or revise an agency must, at a minimum, include all of the following in its business case:

Need for an Agency

- assurance the proposed entity meets the agency definition
- need for some level of autonomy from government and rationale for why the agency model is the best way to carry out the function in question
- justification that no existing entity (ministry, agency, etc.) can better carry out the function

Type of Agency

- which category the agency falls into (see section 3.3.4)
- proposed mandate of the agency

Risk and Cost Analysis

- cost effectiveness
- financial and risk assessments
- staffing implications
- liabilities (e.g., indemnification, GST status)

Alignment of Structure with Mandate

- agency structure is clear and appropriate to the work of the agency
- mandate, appointments, roles and responsibilities, interactions with government, authority for communications, accountability mechanisms, and reporting requirements all clear and appropriate
- means of assessing and evaluating agency performance
- any shared services involved (e.g. Service Alberta, use of departmental resources)
- applicability of existing legislation
- agency review and dissolution procedures
- procedure to establish the agency (e.g. legislation or order)

Templates, examples and other guidance to assist ministries will be available from the Agency Governance Secretariat, which will also be available to assist departments in understanding and applying best practices in agency establishment.

3.3.2   Approval Processes

Approval processes for agencies will vary depending on the classification of the agency. All corporate enterprise, public trust, service delivery and regulatory/adjudicative agencies must receive Cabinet approval (see section 3.3.4 for more information on classification).

Depending on the business case, nature and scope of responsibilities, advisory agencies may or may not require Cabinet approval as determined by the minister. For example, advisory agencies being created with enabling legislation should also have Cabinet review of the business case as part of the approval process. Advisory agencies being created under the *Government Organization Act* may not necessarily require cabinet approval.

3.3.3 Review and Termination of Agencies

Regular Review

Regular reviews of the mandate and purpose of an agency will allow government and the agency to determine if the work of the agency is still relevant to the needs of the province, if it is aligned with government priorities, and if the operations and functions are being carried out in a manner that can achieve government objectives. The reviews will be conducted at least every five years or earlier if there is a significant reorganization of government functions, or if government wishes to realign its priorities. Establishing an inventory of agencies (see section 4) will facilitate the review process by flagging those agencies that are up for their regular review.

The responsible ministry will lead the agency review. The Agency Governance Secretariat will support the ministries by developing a plan for working through the review process for all agencies. The Secretariat will also develop review templates for each classification of agency, and providing advice on adapting these to the mandate of the individual agency.

Dissolving Agencies

Transparent processes will be established for dissolving agencies. In many cases, existing legislation prescribes the process. Where that is not the case, an appropriate dissolution team and charter will be established to carefully wind down the operations, financial and human resource components of the agency. The exact dissolution process will differ with each situation and type of agency, but clear communication and leadership will be key to smooth transitions.

Templates, examples and other guidance will be developed. The Agency Governance Secretariat will be available to assist departments in understanding and applying best practices in agency dissolution.

3.3.4 Classification

Once established, agencies are subject to the provisions of this Framework. While all the Framework policies apply to all agencies, the way the policies are implemented will vary significantly. For example, adjudicative agencies need to ensure that policy implementation respects the principle of their judicial independence. Categories are primarily a tool for identifying best practices; they will help similar agencies learn from common experiences. However, variation in governance practices is to be expected both across and within categories, according to factors such as the size, complexity and focus of the agency.

Every agency can be fit into one of the five functional categories below, based in their *primary* purpose:

- **Regulatory/adjudicative agencies** – Regulatory agencies license, make rules and/or oversee a sector (e.g. the Automobile Insurance Rate Board). Adjudicative agencies make independent, quasi-judicial decisions (e.g. the Métis

Settlements Appeals Tribunal). Some agencies may perform both regulatory and adjudicative functions (e.g. the Natural Resources Conservation Board).

- **Public trust agencies** – administer provincial financial and/or other assets in the public interest (e.g. the Alberta Investment Management Corporation (financial assets) or the Alberta Foundation for the Arts (other assets)).

- **Corporate enterprise agencies** - provide or sell goods or services to the public in a commercial manner (e.g. Alberta Treasury Branches).

- **Service delivery agencies** - provide and/or direct government services (e.g. Regional Health Authorities or Child and Family Service Authority Boards).

- **Advisory agencies** - provide advice to government (e.g. the Seniors Advisory Council for Alberta).

Determination of which category an agency belongs in should be based on the primary function of the agency, recognizing that the entity may also have work related to one or more of the other categories. The Agency Governance Secretariat will determine an agency's classification in consultation with the agency and responsible ministries. Classification will assist with maintaining the Agency Inventory and developing leading governance practices for each group.

4   Alberta Agency Inventory

4.1   Government Policy

All agencies will be recorded in the Alberta Agency Inventory. The inventory will be housed with the Agency Governance Secretariat and will be maintained in cooperation with the responsible ministries.

4.2   Rationale

The inventory will assist the government in actively overseeing the governance of its agencies in order to ensure public functions are being provided in the most appropriate and effective manner. It will allow for greater coordination across government, more consistent governance practices and regular review of agencies.

4.3   Implementation

The provincial government will create a consolidated inventory of agencies. All entities that meet the Framework's definition of an agency (see section 1) will be recorded in the Agency Inventory.

The inventory will include at least the following information for each agency:

- name
- responsible minister
- classification
- mandate
- mandate review/sunset date
- chair
- directors
- contact information
- appointment termination dates
- legislation

The inventory will be housed within the Agency Governance Secretariat, with the responsible ministries updating relevant information in a timely manner as changes arise. The inventory will also assist in ensuring agency reviews are conducted as required.

5 Roles and Responsibilities

5.1 Government Policy

All agencies will have clearly articulated roles and responsibilities. This will occur through formalized documents that describe: the mandate of the agency, the roles of government and the agency, the accountability chain, a process for annual reaffirmation of mandate documents and how the renewal of mandate documents will occur.

5.2 Rationale

Common understanding of all parties' roles and responsibilities is the primary governance issue for agencies and government. The minister is ultimately responsible to the public for how the work of the government is accomplished; the authority to conduct government business flows from the minister through to the agency, and some level of accountability must flow back. Once a responsibility is given to an agency, the agency must be able to exercise discretion within the bounds of its mandate while being held accountable for its results. Clear statements about roles and responsibilities that are reviewed and regularly accepted by the highest levels of the agency and ministry are essential for good governance.

5.3 Implementation

Effective implementation will require acceptance of mandate and roles documents for all agencies, as well as the use of appropriate accountability tools.

5.3.1 Mandate and Roles Documents

Mandate and roles documents will build on the business case and legislation to provide further clarity and direction between the government and agencies. Created cooperatively between the minister and chair, each document's purpose is to provide high-level understanding of the role of the agency within the government structure, and to outline the goals and performance expectations of the minister. It is not a control document, but rather it provides an opportunity for ministers and chairs to develop communication channels, express concerns and share successes.

Mandate and roles documents will vary between organizations. In some cases, they may be addressed through existing Memoranda of Understanding that already cover the topics outlined below, and therefore need only to be reviewed annually. Further, a mandate and roles document is not meant to duplicate legislation, but rather address how the legal framework will be put into practice. The Agency Governance Secretariat can provide advice, templates and other tools to assist in the development of mandate and roles documents.

While the details in a mandate and roles document may vary from agency to agency, each document will at minimum address the following:

- mandate of the agency, including its classification;
- high-level roles and responsibilities of the agency and government;
- expected outcomes (including related timeframes);
- an overview of any financial, staffing or administrative support to be provided to the agency by the department; and
- interactions between the agency and the department (if any).

Agencies that are not classified as purely advisory must also include, where not set out in legislation:

- a statement on accountability relationships (i.e., who is accountable to whom for what);
- financial (including funding), staffing (including staff status under the *Public Service Act*), and administrative arrangements;
- reporting requirements (including business plans, annual reports, financial reports, and other reports required by the minister in fulfilling his/her responsibilities);
- audit requirements and arrangements (if any);
- periodic agency reviews; and
- applicability of Cabinet directives and other legislation (e.g., *Financial Accountability Act, Freedom of Information and Protection of Privacy Act*, etc).

Every mandate and roles document will include provisions stating that it:

- is in effect for not more than three years;
- must be renewed or revised by the expiry date; and
- must be affirmed annually or on a change in either the minister or the agency chair.

Copies of the mandate and roles document for all agencies will be filed with the responsible ministry, the agency and the Agency Governance Secretariat. In support of transparency, this document should also be easily available to the public, where appropriate.

Implementation Notes:

Adjudicative agencies may wish to highlight how the agency - government relationship will respect the principles of judicial independence.

Agencies whose directors represent constituencies may wish to address how the role of representative is reconciled with the obligation to work in the best interest of the agency.

5.3.2   Tools for Accountability

Three primary tools can be used for agency accountability:

- **business plans** that lay out how the agency intends to meet its mandate;
- **annual reports** that indicate what the agency has done to advance its mandate, whether it has met its targets and progress towards intended outcomes; and
- **audit** processes.

These elements will allow the board to know how the agency is doing and will also provide the minister and the public with key indicators of agency performance. The minister can hold the agency to account for how it has exercised its responsibilities.

In many cases, agencies are already preparing business plans and annual reports, as well as conducting audits in ways that meet their particular needs. The Agency Governance Secretariat will continue to work towards sharing leading practices related to the range of accountability tools and their applicability to various types of agencies.

Business Plan

A business plan is a document, produced annually, that contains the agency's plans for a set of upcoming fiscal years (usually three years). It lists anticipated outcomes, sets targets, and presents high-level performance indicators. Agencies that make financial decisions must include financial targets and plans. Other details contained in the business plan will depend on the individual agency and any legislated requirements. The business plan must be submitted to the responsible minister, on a timeline determined in the mandates and roles document. Agencies are also encouraged to make these documents publicly available.

Annual Report

An annual report is a yearly document that reports what was achieved during the previous year against the current business plan. It provides information on whether the targets, indicators and outcomes were achieved. Financial statements must be included for agencies that make financial decisions. The annual report must be submitted to the responsible minister and must also be publicly available to Albertans.

Audit Processes

Ensuring that an agency's financial matters are managed effectively is integral to good governance. Financial audits exist to add credibility to assertions that an agency's financial statements fairly represent the organization's position and performance. Transparent audit processes allow the government, regulators, other levels of government, private corporations, employees and the general public to be confident that the financial statements are accurate.

An individual agency's requirement for, and level of, auditing will depend on a number of factors, including:

- the agency mandate;
- the agency's financial, organizational and reporting structures;
- its ability to hold capital assets;
- its ability to incur financial liabilities or enter into other commitments (e.g., through borrowing or making loans);
- its ability to enter into legal agreements with other parties; and
- agency revenues and/or expenditures that may be material to the operations of the government.

Ministries should proactively consult with the Auditor General of Alberta during the agency establishment process to seek advice on whether a proposed agency will require some form of audit, and what type of audit processes (internal/external) would be the most suitable.

Beyond these audit requirements, an agency may also be audited at the request of the minister.

5.3.3   General Roles and Responsibilities

The exact way that roles and responsibilities are set out will vary among agencies, but underlying these variations is a common theory: authority flows from the public, through the minister to the agency directors; accountability returns from the agency, through the chair to the minister, who is held accountable by the public.

The Agency Governance Secretariat can assist ministries and agencies in outlining roles and responsibilities and establishing useful roles and mandate documents.

6 Recruitment and Appointment Processes

6.1 Government Policy

The Government of Alberta will use a transparent, non-partisan and competence-based process for the appointment of directors to agencies. Within this competence-based approach, effort will be made to encourage diversity among the individuals who submit their names for consideration.

6.2 Rationale

Agencies are run by people, not processes. Making sure the best people are appointed to serve as agency directors is critical to good governance. Ensuring that transparent, competence-based recruitment and appointment processes are in place will help agencies meet their mandates and increase public confidence in agencies.

The principles and basic processes outlined below will be the foundation for recruitment and appointment to all agencies. While all the principles are important, competence is of paramount importance. Putting competence-based recruitment and appointment into practice will not result in one single, central appointments process, but rather in understood and transparent processes that support agencies and ministries.

6.3 Implementation

Successful recruitment and appointment require a balance between the knowledge, expertise and requirements of the agency, and the responsibilities and needs of the minister. They will allow for skilled boards, succession planning, and good relationships with the minister. Best practice indicates it is important for agencies to develop competence matrices and to identify skill requirements for the board. Any existing gaps or special requirements must be communicated to the minister. In some cases, the agency may also produce a short list of candidates that meet these competences for the minister's consideration.

In some cases, such as representative boards, circumstances may exist whereby some or all of the processes outlined in 6.3.2 may be modified or omitted. This will be set out in legislation or approved by the minister at the beginning of the appointment process.

6.3.1   Recruitment and Appointment Principles

The following principles will form the basis of all agency appointment processes.

- **Competency**: Selection is based on skill sets that meet the needs and nature of the organization so that the agency has directors who, together, have the competencies to implement good governance practices and meet the agency's mandate.

- **Agency engagement**: The agency is involved in establishing the governance needs of the agency, reviewing candidates, and advising on recommended candidates. At a minimum, the chair or another board member will be included in the selection panel.

- **Transparency and openness**: The recruitment and appointment process is clear, publicly available and communicated to stakeholders. Individual openings for positions are publicly advertised, and reasonable steps are taken to reach a large number of diverse and eligible candidates. Appointments are publicly posted.

- **Consistency**: The recruitment and appointment process is applied consistently for all directors appointed by the government to its agencies.

- **Timeliness:** Appointments are made and announced in a timely manner.

- **Diversity**: The recruitment and appointment process recognizes the importance of diversity. In order to ensure a constant and on-going pool of qualified candidates, the government will promote the value of board membership, increase public awareness of opportunities and actively recruit candidates from across the province.

These principles will be integrated into recruitment processes which respect ministers' and Cabinet's role in finalizing appointments.

6.3.2   Recruitment and Appointment Processes

Agency recruitment and appointment processes will vary, but must all address the key steps outlined below. For example, in some cases it may be appropriate for the agency to carry out these steps internally; in other instances the agency and ministry may work together with human resource specialists; in other cases the recruitment process may be largely supported by the department. Where recruitment and appointment processes are not explained in legislation or bylaws, the processes should be set out in the agency's mandate and roles document.

The four key elements in recruitment and appointment are as follows.

Identify the Need for an Appointment

As much as possible, vacancies should be anticipated to allow proactive recruitment and appointment to be completed in a timely manner.

Recruit for the Required Skills

Each agency should have a competency profile or matrix that outlines the skills, experience and knowledge their directors require as a collective, and which identifies how each individual contributes to meeting these needs. When vacancies arise, these matrices will allow for easy identification of the competencies required of the new recruit. The profile or matrix should be developed by the agency's governing body and endorsed by the minister.

When a vacancy for a director is confirmed, the opening should be publicly posted, citing the required competencies along with any other requirements. Posting may be done in many different ways, including advertisements, posting on the Government of Alberta website, using professional recruiters, and inviting recommendations from local MLAs. The details of how this should be accomplished, and by whom, should be set out in each agency's mandate and role document. In cases of representative directors, a transparent process should be documented and used.

As a parallel support function, the Agency Governance Secretariat will work to promote an increase in the range of available agency appointment candidates. There will be a focused effort on promoting the value of agency participation, the range of opportunities available, and how to access information about these opportunities. Best practices in agency recruitment will also be identified and shared. Through these efforts, a broader and more diverse pool of potential candidates will be able to apply for vacancies, and then be screened against the competence criteria.

Review Applications

The details of how applications will be screened should be set out in documentation, and should include:

- who will review the applications;
- who will conduct interviews;
- how candidates will be evaluated; and,
- at what point candidates undergo criminal, conflict of interest and (where applicable) financial screening.

In determining the details of the process, consideration should be given to the principles outlined above, the need to match the candidates to the competencies, and the need for compatibility. The choice of who participates in the process, and in what role, will vary from agency to agency. In some instances, the process will be largely carried out by the agency. In others, the government will play a larger role. The mandate and roles document should lay out the parameters of the process, which should also be publicly available.

Recommend to the Minister

The review and interview process will lead to submitting a recommendation to the minister on the top candidates. Where possible, the recommendation should have several names, ideally between two and five for each vacancy. The minister will make a final decision from the recommendation, obtain any final approvals (i.e. Cabinet approval), and then communicate the appointment publicly in a timely manner.

6.3.3   Representative Boards

Some of Alberta's public agencies are governed by 'representative' boards where a certain number of director positions are legislatively allocated to specific stakeholder groups. Often, the selection of these individuals is assigned by the government to the stakeholder group. Once the stakeholder has nominated a director, the individual is generally appointed to the role by an Order in Council or Ministerial Order. When vacancies of this nature arise, representative groups should be encouraged to consider the skills needed on the board, as described in the agency's competency matrix, in their nominations.

7   Term Lengths

7.1   Government Policy

All agencies will have fixed term lengths for directors, with renewal conditional on performance. For public trust, corporate enterprise, service delivery and advisory agencies, the maximum consecutive service for directors is 10 or fewer years. For adjudicative agencies, the maximum consecutive service is 12 or fewer years. In cases where new term lengths area being established, staggered appointment termination dates will be used to support sucession planning and continuity.

7.2   Rationale

Fixed terms are a tool to promote balance between renewal and experience on agency boards. Leading practice suggests that setting a term of a reasonable number of years (three or four), renewable once, is an effective approach for most agencies. Adjudicative agencies tend to benefit from longer terms.

7.3   Implementation

The precise length of term and the number of renewals allowed will be up to the individual agencies and their ministers, as long as the total length of service does not exceed 10 years (12 for adjudicative agencies), and renewal is based on performance and approval of the minister. Best practice indicates terms be staggered so that no more than one-third of the directors are turning over at once.

Most existing fixed-term practices in use in agencies meet the requirements of this policy. In all cases, renewal for a second or third term is conditional on performance, and at the discretion of the minister.

Implementation Notes:

Agencies with representative boards may wish to accommodate the internal cycles of the represented groups by having different term limits for different directors. Such arrangements require buy-in from all parties to be successful, as well as careful attention to the staggering of terms in order to promote continuity.

Chair

Some agencies find it useful to have practices that allow their chairs to serve longer periods than other directors, generally in order to accommodate at least one term as a director, followed by two terms as chair. This practice is consistent with the policy as long as the total number of consecutive years of

service does not exceed 10 years (12 for adjudicative agencies). As with director reappointments, the second term should be contingent on satisfactory performance.

Transparency

Agency policies regarding fixed terms must be clearly spelled out and explained to all directors. Generally, this will be accomplished most effectively through mandate and roles documents, often supplemented by agency by-laws. Ministers are responsible for term limits and reappointments based on sound performance. Generally, the chairs will provide performance recommendations about directors to the minister.

8 Government Representation on Boards

8.1 Government Policy

The Government of Alberta will only appoint elected or senior officials to agencies when their input is important for the agency to achieve its mandate. In such circumstances, elected officials will be compensated, at most, at the same rate as other directors.

8.2 Rationale

Agencies are created in order to operate at some level of distance from government. While the degree of distance varies considerably from agency to agency, placing government officials on agency boards can make this distance hard to maintain. It can also pose challenges for the government officials who must distinguish between their obligations as departmental or legislative representative and their role as agency members.

Nonetheless, in some instances, government representatives bring skills, knowledge and experience that are important for an agency to meet its mandate. Examples of this include agencies whose mandate is to serve as a point of liaison between government officials and industry.

Where government representative participation is not central to meeting the agency mandate, other channels of communication and oversight will be essential. This will help ensure clear roles and responsibilities, and avoid potential perceived conflicts. For affected agencies, an implementation plan will be developed to ensure a smooth transition.

8.3 Implementation

The following three principles will be used to determine if government representation is important for an agency to achieve its mandate.

- Current legislation for specific agencies requires elected and/or senior official representation in order to have a fully constituted board. The continued need for the presence of government representatives will be reviewed as part of the regular evaluation process of an agency.

- Elected and/or senior officials have unique subject matter knowledge of government direction that is greatly beneficial to an agency, and in particular to advisory, industry liaison or boards focused on economic development.

- New agencies can benefit from guidance and understanding of government direction and processes through the membership of an elected or senior official. This membership should be reviewed during the regular agency review process.

9   Orientation and Education

9.1   Government Policy

The Government of Alberta will offer all directors a general orientation to public sector governance. All agencies will provide their directors with an orientation to the particular practices of their organization, including their governance practices. Agencies will pursue ongoing development opportunities for their directors, and the Secretariat will promote learning about best practices in governance. Government officials (including ministers) who work with agencies will be offered an orientation to agency governance.

9.2   Rationale

Given the significant portion of the government's responsibilities handled through agencies, it is important that there be a commitment to educating and strengthening the knowledge and abilities related to agency governance. This education needs to take place among two groups: agency directors, and the government officials and ministers who work with them. Governance can be complex and success depends upon everyone understanding their roles. Orientation and on-going learning will help develop common understandings of good governance practices.

9.3   Implementation

9.3.1   Orientation

The Agency Governance Secretariat will develop and offer high-level governance orientation programs both for agency directors and for ministers and departments. Programs for agency directors will review good governance in the public sector and follow this Framework, and will also foster relationships among directors and key government support services. They will also help directors understand the nature of their fiduciary duties in the public sector. Orientation packages for ministers and departments will focus on the range of agencies and how to work with them to promote superior outcomes.

Agencies will continue to be responsible for providing their directors with an orientation on their organization and its specific governance practices, mandate and environment.

9.3.2   On-going Learning

Agencies will plan ongoing learning for all their directors to improve individual performance. Training may cover a range of skills, with particular consideration given to financial literacy, communication, strategic planning, and understanding the legal environment.

The Agency Governance Secretariat will provide tools to help agencies understand what courses currently exist and to find solutions to any gaps in training that may exist.

9.3.3   Leading Practices

The Agency Governance Secretariat will work with ministries to ensure information on emerging leading practices in good governance is available through a variety of means, including courses, networking and other sources.

10   Ethics and Conflict of Interest

10.1   Government Policy

All agencies will have codes of conduct that address key issues raised in the public service code, conflict of interest disclosure practices, and safe disclosure practices. Copies of agency policies will be filed with the Agency Governance Secretariat.

Prior to their appointment, all directors will be screened for potential conflicts of interest.

10.2   Rationale

Trust is the fundamental relationship between directors and the public agencies on which they serve. Essential to trust is a commitment to honesty and integrity. Ethical conduct within this relationship imposes certain obligations.

The requirement to have a code of conduct will demonstrate that all aspects of the Government of Alberta's work are conducted in an ethical manner, and that systems are in place to manage conflicts of interest.

10.3   Implementation

10.3.1   Agency Code of Conduct

Every agency must have and implement an appropriate code of conduct that includes disclosure of interest practices. The existing *Code of Conduct and Ethics for the Public Service of Alberta* should be used as a starting point for agency codes, recognizing that it will need to be adapted to meet specific circumstances. Given their separation from government structures, agencies should also ensure they have safe disclosure practices enshrined in their codes.

The chair should administer agency codes by ensuring all directors and, where applicable, the CEO (or equivalent position), adhere to appropriate codes and that the CEO administers a code for any other employees. For the chair, the codes should be administered by an appropriate board member(s). In the case of conflict over interpretation or suspicion of a serious breach, an outside party (e.g. the Ethics Commissioner) should be engaged. Should a breach be confirmed, the responsible minister should be informed.

An agency's legislation (or other constituting documents) may additionally specify that certain positions fall under the jurisdiction of the Ethics Commissioner. Placing positions under the jurisdiction of the Ethics Commissioner should be given particular consideration for chairs of corporate enterprises, public trusts or regulatory/adjudicative agencies.

It is important to note that codes of conduct and conflict of interest policies are meant to enable and assist in establishing good relationships and ensuring agency mandates are met in effective and appropriate ways. They should complement leading business practices and assist in identifying candidates for future appointments. Tools and models to assist in identifying the key elements to be included in the codes are available from the Agency Governance Secretariat.

Existing Practices

Some agencies already have codes that meet or exceed these guidelines. Some agencies will identify gaps in their codes, and others will be starting from scratch. Agencies can seek assistance from the Agency Governance Secretariat to prepare these documents, if needed.

Implementing this policy will not affect any existing practices in agencies where certain officials currently report to the Ethics Commissioner. These officials will continue to do so, but will now also have to ensure their agency has a code of conduct.

10.3.2   Pre-appointment Screening

Prior to being appointed to an agency, potential directors must be screened for real or potential conflicts of interest, and must also review and agree to abide by the agency code of conduct.

During the screening process, it is important that every actual or potential conflict of interest is identified, and that it is determined whether the conflict can be adequately managed. Where directors are appointed and have manageable conflicts, the agency chair should be made aware of the situation so that he or she may better help the director avoid potential conflicts.

In some cases, members are appointed to an agency because they represent a particular stakeholder interest (i.e. representative boards). In these cases, there is a degree of inherent conflict, as the director has an obligation to work in the best interest of the agency, regardless of his or her reason for being at the table. It is imperative that all members of representative boards understand their fiduciary obligation to work in the best interest of the board.

10.3.3   Identifying and Managing Conflicts of Interest

A conflict of interest may arise from, for example:

- memberships, directorships or other employment;
- interests in business enterprises or professional practices;
- shared ownership (direct or indirect);
- existing professional or personal associations with the subject agency;
- professional associations or relationships with other groups or organizations;
- personal associations with other groups or organizations; or
- family relationships.

If a conflict of interest has been identified, depending on the nature of the conflict of interest, either:

- the candidate is not suitable for appointment, or
- an acceptable mechanism or system must be established to deal with the conflict.

Mechanisms for avoiding or managing the risk of conflict of interest include:

- divesting conflicting business interests;
- severing connections that may create a conflict of interest;
- entering into confidentiality agreements;
- declaring interests;
- abstaining from voting;
- withdrawing from discussion;
- not receiving relevant information; and
- agreeing not to act.

The Agency Governance Secretariat can provide assistance in developing practices to identify and manage conflicts.

11   Evaluation of Boards and Directors

11.1   Government Policy

Agencies will use evaluation processes to support director performance and board success. The Agency Governance Secretariat will support ministries in encouraging the use of evaluation tools and the use of evaluations in the reappointment process.

11.2   Rationale

Board and director evaluations are conducted for different purposes than agency evaluations (which determine whether the organization as a whole is meeting its mandate and performance expectations). Board and director evaluations are intended to increase the performance of the board as a group, as well as enhance individual director effectiveness. The results of the evaluation should be used for strategic planning, education, board reappointments and identification of any missing competencies on the board. Evaluations should never interfere with the principles of judicial independence.

These evaluations are not about government control or interference. Best practices show they are most effective when they are internal processes, used within the agency to strengthen performance. Generally, the role of the government will be extremely limited, although the chair may share the results with the minister. The Agency Governance Secretariat will not conduct or collect evaluations, but will list potential resources and facilitate sharing of best practices.

11.3   Implementation

Due to the diversity of the province's agencies mandates, resources and experience in evaluation, there is no single, standard method of carrying out an effective assessment for all boards. Each agency should identify the best method for their current situation.

The Agency Governance Secretariat can provide tools and templates that will allow agencies to use an evaluation system that is appropriate to their agency, their experience and sophistication in board evaluation. The Secretariat can also assist agencies moving to new systems. These tools would deal with both board and individual director evaluation and incorporate leading governance practices as they evolve.

12   Remuneration

12.1   Government Policy

Agency remuneration practices are easily accessible and available. All agencies disclose the remuneration their directors receive.

12.2   Rationale

While there is no requirement that appointees be paid (as this is at the discretion of the minister), the Government of Alberta recognizes that individuals appointed to the governing bodies of Alberta's agencies should not be out-of-pocket for their service. In most cases, Orders in Council created under the authority of the *Public Service Act* outline the remuneration schedules. In other cases, remuneration rates are at the discretion of the board. A wide range of factors affect remuneration, including: complexity, financial impact, roles, time commitment, public service, recruitment, risk, and fiscal responsibility.

Remuneration of appointees must reflect the nature of the service, the complexity of the tasks to be performed and the amount of time dedicated to their service. Except in very unusual circumstances, there should be consistency within an agency and among similar agencies for director remuneration.

Requiring compensation to be publicly disclosed will help promote consistency by raising awareness of remuneration practices.

12.3   Implementation

The method of disclosing director remuneration is at agency discretion. Best practices indicate that listing remuneration in annual reports and posting it on agency websites are both effective.

The Agency Governance Secretariat will work with agencies to increase awareness and understanding of the current remuneration policy. The Secretariat will work with Corporate Human Resources to review current remuneration practices and present them in a consolidated fashion. Anomalies that may require further analysis will be brought to the attention of Corporate Human Resources.

13 Committees

13.1 Government Policy

Agencies should use committee structures appropriate to their organizational needs.

13.2 Rationale

The research has shown that committees are a necessary governance tool for agencies. However, the number and type of committees need to reflect the circumstances of the individual agency. For example, only those agencies with direct budgetary responsibilities need an audit committee. The objective is for agencies to have systems in place to ensure that key board responsibilities are executed in a consistent, diligent and timely manner. Due to the particular need for diligence regarding finances, human resources and governance, all agencies that have related functions should give consideration to using audit, human resources and governance committees.

13.3 Implementation

The Agency Governance Secretariat will work with ministries and agencies to increase knowledge and understanding of committee types and structures that are useful for good oversight of agency responsibilities, and leading practices in reviewing effectiveness of committees. Practicality should be a key consideration. For example, small agencies may wish to reserve time to meet as a committee of the whole in order to ensure that certain issues are accorded the attention they merit.

Information related to committees, including leading practices and resource materials, will be made easily available through the secretariat website and distribution to ministries and agencies.

Appendix A: Overview of Agency Governance Policies

Application: The *Public Agencies Governance Framework* applies to all agencies.

Creating agencies: Agency establishment and dissolution will be based on a standardized process.

Agency review: All agencies will be subject to regular review processes to ensure they are meeting their mandates and continue to be aligned with government direction.

Agency inventory: All agencies will be recorded in the Alberta Agency Inventory. The inventory will be housed with the Agency Governance Secretariat and will be maintained in cooperation with the responsible ministries.

Roles and responsibilities: All agencies will have clearly articulated roles and responsibilities. This will occur through formalized documents that describe: the mandate of the agency, the roles of government and the agency, the accountability chain, a process for annual reaffirmation of mandate documents and the way the renewal of mandate documents will occur.

Recruitment and appointment: The Government of Alberta will use a transparent, non-partisan and competence-based process for the appointment of directors to agencies. Within this competence-based approach, effort will be made to encourage diversity among the individuals who submit their names for consideration.

Fixed terms: All public trust, corporate enterprise, service delivery and advisory agencies will have fixed term lengths, where renewal is conditional on performance and results in 10 or fewer years of consecutive service. For adjudicative agencies, the maximum consecutive service is 12 or fewer years. In cases where new terms lengths are being established, staggered appointment termination dates will be used to support succession planning and continuity.

Government representation: The Government of Alberta will only appoint elected or senior officials to agencies when their input is important for the agency to achieve its mandate. In such circumstances, elected officials will be compensated, at most, at the same rate as other directors.

Orientation and education: The Government of Alberta will offer all directors a general orientation to public sector governance. All agencies will provide their directors with an orientation to the particular practices of their organization, including their governance practices. Agencies will pursue on-going development opportunities for their directors, and the Secretariat will promote learning about best practices in governance. Government officials (including ministers) who work with agencies will be offered an orientation to agency governance.

Code of conduct and ethics: All agencies will have codes of conduct that address key issues raised in the public service code, conflict of interest disclosure practices, and safe disclosure practices. Copies of agency policies will be filed with the Agency Governance Secretariat.

Conflict of interest: Prior to their appointment, all directors will be screened for potential conflicts of interest.

Evaluations: Agencies will use evaluation processes to support director performance and board success. The Agency Governance Secretariat will support ministries in encouraging the use of evaluation tools and the use of evaluations in the reappointment process.

Remuneration: Agency remuneration practices will be easily accessible and available. All agencies disclose the remuneration their directors receive.

Committees: Agencies should use committee structures appropriate to their organizational needs.

Appendix B: Glossary

Appointee – director, trustee, governor, member, etc. appointed to an agency by the minister or by the Lieutenant Governor in Council; 'appointee' does not mean an individual appointed as staff (e.g. CEO) to an agency.

Board – agency directors who, by the agency's constituting instrument, have been collectively assigned, designated, etc. to direct the affairs of the agency.

CEO – the senior staff person of an agency (may be called chief operating officer, chief administrative officer, president, executive director, general manager, registrar, etc.).

Chair – the agency member who is appointed, designated or elected to preside over the agency.

Director – director, trustee, governor, member, etc who sits on the agency board.

Deputy Minister – the deputy minister of the ministry whose minister is accountable for the agency.

Minister – the minister accountable for an agency.

Ministry – the government area accountable for the agency and includes the minister and any applicable components of the department.

Appendix C: Index